

resident alien of the United States, or by an organization thereof; or

(3) an act in furtherance of the offense was committed in the United States.

(Added Pub. L. 106-181, title V, § 506(c)(1), Apr. 5, 2000, 114 Stat. 137.)

#### EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106-181, set out as an Effective Date of 2000 Amendments note under section 106 of Title 49, Transportation.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2516 of this title.

### CHAPTER 3—ANIMALS, BIRDS, FISH, AND PLANTS

Sec.

41. Hunting, fishing, trapping; disturbance or injury on wildlife refuges.
42. Importation or shipment of injurious mammals, birds, fish (including mollusks and crustacea), amphibia, and reptiles; permits, specimens for museums; regulations.
43. Animal enterprise terrorism.
- [44, 45. Repealed.]
46. Transportation of water hyacinths.
47. Use of aircraft or motor vehicles to hunt certain wild horses or burros; pollution of watering holes.
48. Depiction of animal cruelty.

#### HISTORICAL AND REVISION NOTES

The criminal provisions of the Migratory Bird Treaty Act, sections 703-711 of title 16, U.S.C., 1940 ed., Conservation, and the Migratory Bird Conservation Act, sections 715-715r of title 16, U.S.C., 1940 ed., Conservation, were considered for inclusion in this chapter. Since these provisions, except parts of sections 704-707 of said title 16, are so inextricably interwoven with the Migratory Bird Acts, it was found advisable to exclude them.

#### AMENDMENTS

1999—Pub. L. 106-152, § 1(b), Dec. 9, 1999, 113 Stat. 1732, added item 48.

1992—Pub. L. 102-346, § 2(b), Aug. 26, 1992, 106 Stat. 929, which directed the general amendment of item 43, was executed by adding item 43 to reflect the probable intent of Congress, because item 43 had been previously struck out by Pub. L. 101-647. See 1990 Amendment note below.

1990—Pub. L. 101-647, title XII, § 1206(b), title XXXV, § 3506, Nov. 29, 1990, 104 Stat. 4832, 4922, substituted “Importation or shipment of injurious mammals, birds, fish (including mollusks and crustacea), amphibia, and reptiles; permits, specimens for museums; regulations” for “Importation of injurious animals and birds; permits; specimens for museums” in item 42, struck out item 43 “Transportation or importation in violation of state, national, or foreign laws”, item 44 “Marking packages or containers”, and item 45 “Capturing or killing carrier pigeons”, and inserted “; pollution of watering holes” after “burros” in item 47.

1959—Pub. L. 86-234, § 1(b), Sept. 8, 1959, 73 Stat. 470, added item 47.

1956—Act Aug. 1, 1956, ch. 825, § 2(b), 70 Stat. 798, amended chapter heading to include reference to “Plants” and added item 46.

#### § 41. Hunting, fishing, trapping; disturbance or injury on wildlife refuges

Whoever, except in compliance with rules and regulations promulgated by authority of law, hunts, traps, captures, willfully disturbs or kills

any bird, fish, or wild animal of any kind whatever, or takes or destroys the eggs or nest of any such bird or fish, on any lands or waters which are set apart or reserved as sanctuaries, refuges or breeding grounds for such birds, fish, or animals under any law of the United States or willfully injures, molests, or destroys any property of the United States on any such lands or waters, shall be fined under this title or imprisoned not more than six months, or both.

(June 25, 1948, ch. 645, 62 Stat. 686; Pub. L. 103-322, title XXXIII, § 330016(1)(G), Sept. 13, 1994, 108 Stat. 2147.)

#### HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 145 and §§ 676, 682, 683, 685, 688, 689b, 692a, and 694a of title 16, U.S.C., 1940 ed., Conservation (Jan. 24, 1905, ch. 137, § 2, 33 Stat. 614; June 29, 1906, ch. 3593, § 2, 34 Stat. 607; Mar. 4, 1909, ch. 321, § 84, 35 Stat. 1104; Aug. 11, 1916, ch. 313, 39 Stat. 476; June 5, 1920, ch. 247, § 2, 41 Stat. 986; Apr. 15, 1924, ch. 108, 43 Stat. 98; Feb. 28, 1925, ch. 376, 43 Stat. 1091; July 3, 1926, ch. 744, § 6, 44 Stat. 821; July 3, 1926, ch. 776, § 3, 44 Stat. 889; June 28, 1930, ch. 709, § 2, 46 Stat. 828; Mar. 10, 1934, ch. 54, § 2, 48 Stat. 400; Reorg. Plan No. II, § 4(f), 4 F.R. 2731, 53 Stat. 1433).

This revised section condenses, consolidates, and simplifies similar provisions of sections 676, 682, 683, 685, 688, 689b, 692a, and 694a of title 16, U.S.C., 1940 ed., with section 145 of title 18, U.S.C., 1940 ed., with such changes of phraseology as make clear the intent of Congress to protect all wildlife within Federal sanctuaries, refuges, fish hatcheries, and breeding grounds. Irrelevant provisions of such sections in title 16 are to be retained in that title.

Because of the general nature of this consolidated section, no specific reference is made to rules and regulations issued by the Secretary of the Interior or any other personage, but only to rules and regulations “promulgated by authority of law”.

The punishment provided by the sections consolidated varied from a fine not exceeding \$100 or imprisonment not exceeding 6 months, or both, in section 694a of title 16, U.S.C., 1940 ed., to a fine not exceeding \$1,000 or imprisonment not exceeding 1 year, or both, in sections 676, 685, and 688 of such title 16. The revised section adopts the punishment provisions of the other five sections.

The references to “misdemeanor” in sections 676, 685, 688, 689b, 692a, and 694a of title 16, U.S.C., 1940 ed., were omitted as unnecessary in view of definition of “misdemeanor” in section 1 of this title, and also to conform with policy followed by codifiers of the 1909 Criminal Code, as stated in Senate Report 10, part 1, pages 12, 13, 14, Sixtieth Congress, first session, to accompany S. 2982.

Words “upon conviction”, contained in sections 676, 685, 688, 689b, 692a, and 694a of title 16, U.S.C., 1940 ed., were omitted as surplusage, because punishment can be imposed only after conviction.

Words “in any United States court of competent jurisdiction”, in sections 676, 685, and 688 of title 16, U.S.C., 1940 ed., words “in any United States court”, in sections 689b, 692a, and 694a of such title 16, and words “in the discretion of the court”, in said sections 676, 685, 688, and 689b, were likewise omitted as surplusage.

#### AMENDMENTS

1994—Pub. L. 103-322 substituted “fined under this title” for “fined not more than \$500”.

#### § 42. Importation or shipment of injurious mammals, birds, fish (including mollusks and crustacea), amphibia, and reptiles; permits, specimens for museums; regulations

(a)(1) The importation into the United States, any territory of the United States, the District

of Columbia, the Commonwealth of Puerto Rico, or any possession of the United States, or any shipment between the continental United States, the District of Columbia, Hawaii, the Commonwealth of Puerto Rico, or any possession of the United States, of the mongoose of the species *Herpestes auropunctatus*; of the species of so-called “flying foxes” or fruit bats of the genus *Pteropus*; of the zebra mussel of the species *Dreissena polymorpha*; and such other species of wild mammals, wild birds, fish (including mollusks and crustacea), amphibians, reptiles, brown tree snakes, or the offspring or eggs of any of the foregoing which the Secretary of the Interior may prescribe by regulation to be injurious to human beings, to the interests of agriculture, horticulture, forestry, or to wildlife or the wildlife resources of the United States, is hereby prohibited. All such prohibited mammals, birds, fish (including mollusks and crustacea), amphibians, and reptiles, and the eggs or offspring therefrom, shall be promptly exported or destroyed at the expense of the importer or consignee. Nothing in this section shall be construed to repeal or modify any provision of the Public Health Service Act or Federal Food, Drug, and Cosmetic Act. Also, this section shall not authorize any action with respect to the importation of any plant pest as defined in the Federal Plant Pest Act,<sup>1</sup> insofar as such importation is subject to regulation under that Act.

(2) As used in this subsection, the term “wild” relates to any creatures that, whether or not raised in captivity, normally are found in a wild state; and the terms “wildlife” and “wildlife resources” include those resources that comprise wild mammals, wild birds, fish (including mollusks and crustacea), and all other classes of wild creatures whatsoever, and all types of aquatic and land vegetation upon which such wildlife resources are dependent.

(3) Notwithstanding the foregoing, the Secretary of the Interior, when he finds that there has been a proper showing of responsibility and continued protection of the public interest and health, shall permit the importation for zoological, educational, medical, and scientific purposes of any mammals, birds, fish (including mollusks and crustacea), amphibia, and reptiles, or the offspring or eggs thereof, where such importation would be prohibited otherwise by or pursuant to this Act, and this Act shall not restrict importations by Federal agencies for their own use.

(4) Nothing in this subsection shall restrict the importation of dead natural-history specimens for museums or for scientific collections, or the importation of domesticated canaries, parrots (including all other species of psittacine birds), or such other cage birds as the Secretary of the Interior may designate.

(5) The Secretary of the Treasury and the Secretary of the Interior shall enforce the provisions of this subsection, including any regulations issued hereunder, and, if requested by the Secretary of the Interior, the Secretary of the Treasury may require the furnishing of an appropriate bond when desirable to insure compliance with such provisions.

(b) Whoever violates this section, or any regulation issued pursuant thereto, shall be fined under this title or imprisoned not more than six months, or both.

(c) The Secretary of the Interior within one hundred and eighty days of the enactment of the Lacey Act Amendments of 1981 shall prescribe such requirements and issue such permits as he may deem necessary for the transportation of wild animals and birds under humane and healthful conditions, and it shall be unlawful for any person, including any importer, knowingly to cause or permit any wild animal or bird to be transported to the United States, or any Territory or district thereof, under inhumane or unhealthful conditions or in violation of such requirements. In any criminal prosecution for violation of this subsection and in any administrative proceeding for the suspension of the issuance of further permits—

(1) the condition of any vessel or conveyance, or the enclosures in which wild animals or birds are confined therein, upon its arrival in the United States, or any Territory or district thereof, shall constitute relevant evidence in determining whether the provisions of this subsection have been violated; and

(2) the presence in such vessel or conveyance at such time of a substantial ratio of dead, crippled, diseased, or starving wild animals or birds shall be deemed prima facie evidence of the violation of the provisions of this subsection.

(June 25, 1948, ch. 645, 62 Stat. 687; May 24, 1949, ch. 139, § 2, 63 Stat. 89; Pub. L. 86-702, § 1, Sept. 2, 1960, 74 Stat. 753; Pub. L. 97-79, § 9(d), Nov. 16, 1981, 95 Stat. 1079; Pub. L. 101-646, title I, § 1208, Nov. 29, 1990, 104 Stat. 4772; Pub. L. 102-237, title X, § 1013(e), Dec. 13, 1991, 105 Stat. 1901; Pub. L. 103-322, title XXXIII, § 330016(1)(G), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 104-332, § 2(h)(1), Oct. 26, 1996, 110 Stat. 4091.)

#### HISTORICAL AND REVISION NOTES

##### 1948 ACT

Based on title 18, U.S.C., 1940 ed., §§ 391, 394 (Mar. 4, 1909, ch. 321, §§ 241, 244, 35 Stat. 1137, 1138; June 15, 1935, ch. 261, title II, § 201, 49 Stat. 381; Reorg. Plan No. II, § 4(f), 4 F.R. 2731, 53 Stat. 1433).

This section consolidates the provisions of sections 391 and 394 of title 18, U.S.C., 1940 ed., as subsections (a) and (b), respectively.

In subsection (a) the words “Territory or District thereof” were omitted as unnecessary in view of the definition of the United States in section 5 of this title.

In subsection (b) the words “upon conviction thereof”, were omitted as surplusage because punishment can only be imposed after conviction.

The amount of the fine was reduced from \$1,000 to \$500, thus making the violation a petty offense as defined in section 1 of this title. (See also section 41 of this title which provides a similar punishment.)

Minor verbal changes were also made.

##### 1949 ACT

This section [section 2] incorporates in section 42 of title 18, U.S.C., with slight changes in phraseology, the provisions of act of June 29, 1948 (ch. 716, 62 Stat. 1096), which became law subsequent to the enactment of the revision of title 18.

#### REFERENCES IN TEXT

The Public Health Service Act, referred to in subsec. (a)(1), is act July 1, 1944, ch. 373, 58 Stat. 682, as amend-

<sup>1</sup> See References in Text note below.

ed, which is classified generally to chapter 6A (§201 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 201 of Title 42 and Tables.

The Federal Food, Drug, and Cosmetic Act, referred to in subsec. (a)(1), is act June 25, 1938, ch. 675, 52 Stat. 1040, as amended, which is classified generally to chapter 9 (§301 et seq.) of Title 21, Foods and Drugs. For complete classification of this Act to the Code, see section 301 of Title 21 and Tables.

The Federal Plant Pest Act, referred to in subsec. (a)(1), is Pub. L. 85-36, title I, May 23, 1957, 71 Stat. 31, as amended, which was classified generally to chapter 7B (§150aa et seq.) of Title 7, Agriculture, prior to repeal by Pub. L. 106-224, title IV, §438(a)(2), June 20, 2000, 114 Stat. 454. For complete classification of this Act to the Code, see Tables.

This Act, referred to in subsec. (a)(3), probably refers to Pub. L. 86-702, which amended this section and section 43 of this title.

The enactment of the Lacey Act Amendments of 1981, referred to in subsec. (c), means the date of enactment of Pub. L. 97-79, which was approved Nov. 16, 1981.

#### AMENDMENTS

1996—Subsec. (a)(1). Pub. L. 104-332 made technical amendment to Pub. L. 101-646, §1208. See 1990 Amendment note below.

1994—Subsec. (b). Pub. L. 103-322 substituted “fined under this title” for “fined not more than \$500”.

1991—Subsec. (a)(1). Pub. L. 102-237 inserted “brown tree snakes,” after “reptiles,” in first sentence.

1990—Subsec. (a)(1). Pub. L. 101-646, as amended by Pub. L. 104-332, inserted “of the zebra mussel of the species *Dreissena polymorpha*,” after “*Pteropus*,”.

1981—Subsec. (c). Pub. L. 97-79 substituted “Secretary of the Interior within one hundred and eighty days of the enactment of the Lacey Act Amendments of 1981” for “Secretary of the Treasury”.

1960—Pub. L. 86-702 substituted “Importation or shipment of injurious mammals, birds, fish (including mollusks and crustacea), amphibia and reptiles; permits; specimens for museums; regulations” for “Importation of injurious animals and birds; permits; specimens for museums” in section catchline.

Subsec. (a)(1). Pub. L. 86-702 designated first sentence of subsec. (a) as par. (1), prohibited importation into the Commonwealth of Puerto Rico or any possession of the United States and shipments between the continental United States, the District of Columbia, Hawaii, the Commonwealth of Puerto Rico, or any possession of the United States, described the mongoose and flying foxes by their scientific names, extended the provisions prohibiting importation or shipment to include wild mammals, wild birds, fish (including mollusks and crustacea), amphibians, reptiles, or their eggs or offspring, empowered the Secretary to prohibit importation or shipment if injurious to human beings, forestry, or to wildlife or wildlife resources, required prompt exportation or destruction at the expense of the importer or consignee, provided that this section shall not be construed to repeal or modify any provision of the Public Health Service Act or Federal Food, Drug, and Cosmetic Act and that it shall not authorize any action with respect to the importation of plant pests, and deleted provisions which required destruction of prohibited birds and animals or their return at the expense of the owner, and which prohibited the importation of the English sparrow and the starling.

Subsec. (a)(2), (3). Pub. L. 86-702 added pars. (2) and (3).

Subsec. (a)(4). Pub. L. 86-702 designated second sentence of subsec. (a) as par. (4), limited importation of natural-history specimens to dead ones, and included all species of psittacine birds.

Subsec. (a)(5). Pub. L. 86-702 designated third sentence of subsec. (a) as par. (5), authorized enforcement by the Secretary of the Interior, and permitted the Secretary of the Treasury, if requested by the Secretary of the Interior, to require the furnishing of a bond.

Subsec. (b). Pub. L. 86-702 included violations of regulations.

1949—Subsec. (a). Act May 24, 1949, made section applicable to any Territory or district thereof as well as to the United States, and changed phraseology.

Subsec. (b). Act May 24, 1949, reenacted subsec. (b) without change.

Subsec. (c). Act May 24, 1949, added subsec. (c).

#### INVASIVE SPECIES

For provisions relating to restrictions on the introduction of invasive species into natural ecosystems of the United States, see Ex. Ord. No. 13112, Feb. 3, 1999, 64 F.R. 6183, set out as a note under section 4321 of Title 42, The Public Health and Welfare.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 19 section 1527; title 39 section 3015.

### § 43. Animal enterprise terrorism

(a) OFFENSE.—Whoever—

(1) travels in interstate or foreign commerce, or uses or causes to be used the mail or any facility in interstate or foreign commerce, for the purpose of causing physical disruption to the functioning of an animal enterprise; and

(2) intentionally causes physical disruption to the functioning of an animal enterprise by intentionally stealing, damaging, or causing the loss of, any property (including animals or records) used by the animal enterprise, and thereby causes economic damage exceeding \$10,000 to that enterprise, or conspires to do so;

shall be fined under this title or imprisoned not more than one year, or both.

(b) AGGRAVATED OFFENSE.—

(1) SERIOUS BODILY INJURY.—Whoever in the course of a violation of subsection (a) causes serious bodily injury to another individual shall be fined under this title or imprisoned not more than 10 years, or both.

(2) DEATH.—Whoever in the course of a violation of subsection (a) causes the death of an individual shall be fined under this title and imprisoned for life or for any term of years.

(c) RESTITUTION.—An order of restitution under section 3663 or 3663A of this title with respect to a violation of this section may also include restitution—

(1) for the reasonable cost of repeating any experimentation that was interrupted or invalidated as a result of the offense; and

(2) the loss of food production or farm income reasonably attributable to the offense.

(d) DEFINITIONS.—As used in this section—

(1) the term “animal enterprise” means—

(A) a commercial or academic enterprise that uses animals for food or fiber production, agriculture, research, or testing;

(B) a zoo, aquarium, circus, rodeo, or lawful competitive animal event; or

(C) any fair or similar event intended to advance agricultural arts and sciences;

(2) the term “physical disruption” does not include any lawful disruption that results from lawful public, governmental, or animal enterprise employee reaction to the disclosure of information about an animal enterprise;

(3) the term “economic damage” means the replacement costs of lost or damaged property or records, the costs of repeating an interrupted or invalidated experiment, or the loss of profits; and

(4) the term “serious bodily injury” has the meaning given that term in section 1365 of this title.

(e) NON-PREEMPTION.—Nothing in this section preempts any State law.

(Added Pub. L. 102-346, §2(a), Aug. 26, 1992, 106 Stat. 928; amended Pub. L. 104-294, title VI, §601(r)(3), Oct. 11, 1996, 110 Stat. 3502.)

#### PRIOR PROVISIONS

A prior section 43, acts June 25, 1948, ch. 645, 62 Stat. 687; Sept. 2, 1960, Pub. L. 86-702, §2, 74 Stat. 754; Dec. 5, 1969, Pub. L. 91-135, §7(a), 83 Stat. 279, related to transportation of wildlife taken in violation of State, national, or foreign law, the receipt of such wildlife, and the making of false records in relation thereto, prior to repeal by Pub. L. 97-79, §9(b)(2), Nov. 16, 1981, 95 Stat. 1079. See section 3372(a) of Title 16, Conservation.

#### AMENDMENTS

1996—Subsec. (c). Pub. L. 104-294 inserted “or 3663A” after “section 3663” in introductory provisions.

#### SHORT TITLE

Section 1 of Pub. L. 102-346 provided that: “This Act [enacting this section and provisions set out below] may be cited as the ‘Animal Enterprise Protection Act of 1992.’”

#### STUDY OF EFFECT OF TERRORISM ON CERTAIN ANIMAL ENTERPRISES

Section 3 of Pub. L. 102-346 directed Attorney General and Secretary of Agriculture to jointly conduct a study on extent and effects of domestic and international terrorism on enterprises using animals for food or fiber production, agriculture, research, or testing, and, not later than 1 year after Aug. 26, 1992, submit a report that describes the results of the study together with any appropriate recommendations and legislation to Congress.

#### [§ 44. Repealed. Pub. L. 97-79, §9(b)(2), Nov. 16, 1981, 95 Stat. 1079]

Section, acts June 25, 1948, ch. 645, 62 Stat. 687; Dec. 5, 1969, Pub. L. 91-135, §8, 83 Stat. 281, related to marking of packages or containers used in the shipment of fish and wildlife. See section 3372(b) of Title 16, Conservation.

#### [§ 45. Repealed. Pub. L. 101-647, title XII, § 1206(a), Nov. 29, 1990, 104 Stat. 4832]

Section, act June 25, 1948, ch. 645, 62 Stat. 688, related to penalties for capturing or killing carrier pigeons.

#### § 46. Transportation of water hyacinths

(a) Whoever knowingly delivers or receives for transportation, or transports, in interstate commerce, alligator grass (*alternanthera philoxeroides*), or water chestnut plants (*trapa natans*) or water hyacinth plants (*eichhornia crassipes*) or the seeds of such grass or plants; or

(b) Whoever knowingly sells, purchases, barter, exchanges, gives, or receives any grass, plant, or seed which has been transported in violation of subsection (a); or

(c) Whoever knowingly delivers or receives for transportation, or transports, in interstate com-

merce, an advertisement, to sell, purchase, barter, exchange, give, or receive alligator grass or water chestnut plants or water hyacinth plants or the seeds of such grass or plants—

Shall be fined under this title, or imprisoned not more than six months, or both.

(Added Aug. 1, 1956, ch. 825, §1, 70 Stat. 797; amended Pub. L. 103-322, title XXXIII, §330016(1)(G), Sept. 13, 1994, 108 Stat. 2147.)

#### AMENDMENTS

1994—Pub. L. 103-322 substituted “fined under this title” for “fined not more than \$500”.

#### § 47. Use of aircraft or motor vehicles to hunt certain wild horses or burros; pollution of watering holes

(a) Whoever uses an aircraft or a motor vehicle to hunt, for the purpose of capturing or killing, any wild unbranded horse, mare, colt, or burro running at large on any of the public land or ranges shall be fined under this title, or imprisoned not more than six months, or both.

(b) Whoever pollutes or causes the pollution of any watering hole on any of the public land or ranges for the purpose of trapping, killing, wounding, or maiming any of the animals referred to in subsection (a) of this section shall be fined under this title, or imprisoned not more than six months, or both.

(c) As used in subsection (a) of this section—

(1) The term “aircraft” means any contrivance used for flight in the air; and

(2) The term “motor vehicle” includes an automobile, automobile truck, automobile wagon, motorcycle, or any other self-propelled vehicle designed for running on land.

(Added Pub. L. 86-234, §1(a), Sept. 8, 1959, 73 Stat. 470; amended Pub. L. 103-322, title XXXIII, §330016(1)(G), Sept. 13, 1994, 108 Stat. 2147.)

#### AMENDMENTS

1994—Subsecs. (a), (b). Pub. L. 103-322 substituted “fined under this title” for “fined not more than \$500”.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 16 section 1338a.

#### § 48. Depiction of animal cruelty

(a) CREATION, SALE, OR POSSESSION.—Whoever knowingly creates, sells, or possesses a depiction of animal cruelty with the intention of placing that depiction in interstate or foreign commerce for commercial gain, shall be fined under this title or imprisoned not more than 5 years, or both.

(b) EXCEPTION.—Subsection (a) does not apply to any depiction that has serious religious, political, scientific, educational, journalistic, historical, or artistic value.

(c) DEFINITIONS.—In this section—

(1) the term “depiction of animal cruelty” means any visual or auditory depiction, including any photograph, motion-picture film, video recording, electronic image, or sound recording of conduct in which a living animal is intentionally maimed, mutilated, tortured, wounded, or killed, if such conduct is illegal under Federal law or the law of the State in which the creation, sale, or possession takes

place, regardless of whether the maiming, mutilation, torture, wounding, or killing took place in the State; and

(2) the term “State” means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other commonwealth, territory, or possession of the United States.

(Added Pub. L. 106-152, §1(a), Dec. 9, 1999, 113 Stat. 1732.)

## CHAPTER 5—ARSON

Sec.  
81. Arson within special maritime and territorial jurisdiction.

### § 81. Arson within special maritime and territorial jurisdiction

Whoever, within the special maritime and territorial jurisdiction of the United States, willfully and maliciously sets fire to or burns any building, structure or vessel, any machinery or building materials or supplies, military or naval stores, munitions of war, or any structural aids or appliances for navigation or shipping, or attempts or conspires to do such an act, shall be imprisoned for not more than 25 years, fined the greater of the fine under this title or the cost of repairing or replacing any property that is damaged or destroyed, or both.

If the building be a dwelling or if the life of any person be placed in jeopardy, he shall be fined under this title or imprisoned for any term of years or for life, or both.

(June 25, 1948, ch. 645, 62 Stat. 688; Pub. L. 103-322, title XXXIII, §330016(1)(H), (K), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 104-132, title VII, §708(b), Apr. 24, 1996, 110 Stat. 1296; Pub. L. 107-56, title VIII, §§810(a), 811(a), Oct. 26, 2001, 115 Stat. 380, 381.)

#### HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§464, 465 (Mar. 4, 1909, ch. 321, §§285, 286, 35 Stat. 1144).

Sections were consolidated and rewritten both as to form and substance and that part of each section relating to destruction of property by means other than burning constitutes section 1363 of this title.

The words “within the maritime and territorial jurisdiction of the United States” were added to preserve existing limitations of territorial applicability. (See section 7 of this title and note thereunder.)

The phrase “any building, structure, or vessel, any machinery or building materials and supplies, military or naval stores, munitions of war or any structural aids or appliances for navigation or shipping” was substituted for “any dwelling house, or any store, barn, stable, or other building, parcel of a dwelling house”, in section 464 of title 18, U.S.C., 1940 ed., and “any arsenal, armory, magazine, rope walk, ship house, warehouse, blockhouse, or barrack, or any storehouse, barn or stable, not parcel of a dwelling house, or any other building not mentioned in the section last preceding, or any vessel, built, building, or undergoing repair, or any lighthouse, or beacon, or any machinery, timber, cables, rigging, or other materials or appliances for building, repairing or fitting out vessels, or any pile of wood, boards, or other lumber, or any military, naval or victualing stores, arms, or other munitions of war”, in section 465 of title 18, U.S.C., 1940 ed. The substituted phrase is a concise and comprehensive description of the things enumerated in both sections.

The punishment provisions are new and are graduated with some regard to the gravity of the offense. It was felt that a possible punishment of 20 years for burning a wood pile or injuring or destroying an outbuilding was disproportionate and not in harmony with recent legislation.

#### AMENDMENTS

2001—Pub. L. 107-56, in first par., struck out “, or attempts to set fire to or burn” after “maliciously sets fire to or burns” and inserted “or attempts or conspires to do such an act,” before “shall be imprisoned” and, in second par., substituted “for any term of years or for life” for “not more than twenty years”.

1996—Pub. L. 104-132, in first par., substituted “imprisoned for not more than 25 years, fined the greater of the fine under this title or the cost of repairing or replacing any property that is damaged or destroyed, or both” for “fined under this title or imprisoned not more than five years, or both”.

1994—Pub. L. 103-322 substituted “fined under this title” for “fined not more than \$1,000” in first par. and for “fined not more than \$5,000” in second par.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2332b, 2339A, 3295, 5032 of this title.

## CHAPTER 7—ASSAULT

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|--------------|--|
| Sec.<br>111. | Assaulting, resisting, or impeding certain officers or employees.  |
| 112.         | Protection of foreign officials, official guests, and internationally protected persons.                     |
| 113.         | Assaults within maritime and territorial jurisdiction.   |
| 114.         | Maiming within maritime and territorial jurisdiction.  |
| 115.         | Influencing, impeding, or retaliating against a Federal official by threatening or injuring a family member. |
| 116.         | Female genital mutilation.   |

#### AMENDMENTS

1996—Pub. L. 104-208, div. C, title VI, §645(b)(2), Sept. 30, 1996, 110 Stat. 3009-709, added item 116.

1984—Pub. L. 98-473, title II, §1008(b), Oct. 12, 1984, 98 Stat. 2140, added item 115.

1976—Pub. L. 94-467, §6, Oct. 8, 1976, 90 Stat. 2000, substituted “official guests, and internationally protected persons” for “and official guests” in item 112.

1972—Pub. L. 92-539, title III, §302, Oct. 24, 1972, 86 Stat. 1073, substituted “Protection of foreign officials and official guests” for “Assaulting certain foreign diplomatic and other official personnel” in item 112.

1964—Pub. L. 88-493, §2, Aug. 27, 1964, 78 Stat. 610, substituted “certain foreign diplomatic and other official personnel” for “public minister” in item 112.

### § 111. Assaulting, resisting, or impeding certain officers or employees

(a) IN GENERAL.—Whoever—

(1) forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person designated in section 1114 of this title while engaged in or on account of the performance of official duties; or

(2) forcibly assaults or intimidates any person who formerly served as a person designated in section 1114 on account of the performance of official duties during such person's term of service,

shall, where the acts in violation of this section constitute only simple assault, be fined under this title or imprisoned not more than one year,